

**2001 DRAFTING REQUEST****Senate Amendment (SA-SB55)**Received: **05/25/2001**Received By: **traderc**Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau**By/Representing: **Bonderud**This file may be shown to any legislator: **NO**Drafter: **traderc**

May Contact:

Addl. Drafters:

Subject: **Environment - env. cleanup**

Extra Copies:

Submit via email: **NO**

Requester's email:

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**Pre Topic:**

LFB:.....Bonderud -

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**Topic:**

Changes in land recycling loan program

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**Instructions:**

See Attached

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	traderc 05/27/2001	hhagen 05/28/2001					
/P1			kfollet 05/29/2001		lrb_docadmin 05/29/2001		
/1	traderc 05/31/2001	hhagen 05/31/2001	jfrantze 05/31/2001		lrb_docadmin 05/31/2001		

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Page 2

Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

FE Sent For:

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05/29/2001 11:39:27 AM

Page 1

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/?	traderc 05/27/2001	hhagen 05/28/2001					
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Page 1

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/?	traderc	1 p1 hmk 5/28/01	kj/ 5/29	kj/pq 5/29			

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&lt;END&gt;

in 2001-02 and \$2,700,000 SEG in 2002-03. Provide a corresponding decrease of \$2,400,000 GPR in 2001-02 and \$2,700,000 GPR in 2002-03 in the environmental repair debt service appropriation.

*RET* 16. Lapse \$1,000,000 from the unencumbered balance of the well compensation grant program appropriation to the SEG environmental fund on the effective date of the bill.

*RET* 17. In DNR, provide \$1,000,000 environmental fund SEG in 2001-02 in a biennial appropriation and create a brownfields greenspace grant program. Direct DNR to make awards under the program to local units of governments for brownfields remediations projects that will have a long-term public purpose benefit, including preservation of green space, development of recreational areas or public development and use of a property by the local government.

*RET* 18. Make the following changes in the land recycling loan program within the environmental improvement fund: (a) eliminate the requirement that applicants submit an intent to apply form by December 31 of the preceding fiscal year; (b) direct DNR to accept applications at least semi-annually; (c) specify that the 40% of funds that can be used for landfills would be calculated on a fiscal year basis; (d) allow applicants to use other credit quality collateral that will meet typical financial underwriting criteria to provide adequate security for land recycling loans, in addition to current requirements; (e) clarify that demolition is an eligible activity under the program when a necessary part of remediation; and (f) direct DNR to provide loans for Phase I and II environmental site assessments and site investigations, as allowed by US EPA, when a local government can demonstrate that a remediation will be necessary at the time of the loan application.

*to extent EPA allows it*

*(8m)(a)*

Note:

[Change to Base: - \$5,100,000 GPR, \$11,774,300 SEG and \$11,000,000 SEG-REV and 5.0 SEG positions]

[Change to Bill: - \$5,100,000 GPR, \$9,575,300 SEG and \$11,000,000 SEG-REV and 5.0 SEG positions]

**Legislative Fiscal Bureau**

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

Date: 5/25/01

DELIVER TO:

Becky Tradewell

Addressee Fax #:

4-6948

Addressee Phone #:

6-7290

# of Pages, Including Cover:

6

Sender's Initials:

KB

From:

Kendra Bonderud

Message:

Part 1 = pages from Brownfields Study Group report

Part 2 = Responses I received from DNR regarding land recycling loan program - maybe the background will enlighten on DNR's perspective, call me if you have questions.

## January 2001 Brownfields Study Group Report

**Issue: Streamline The Land Recycling Loan Program****Background**

In the 1997-1999 State Biennial Budget, \$20 million dollars was appropriated to create the DNR's Land Recycling Loan Program (LRLP). The LRLP uses monies repaid to Wisconsin through the federal Clean Water State Revolving Fund (CWSRF) program. These loans, available to both municipal landfills and municipal brownfields sites, are aimed at assisting municipalities with the cleanup of properties they own but did not contaminate.

The 1998 Brownfields Study Group examined the LRLP and made various recommendations. Two Study Group recommendations were accepted into the 1999-2001 State Biennial Budget. The first was to reduce the interest rate of the loan. The loan is now a 0% loan, with a 0.5% annual service fee. The second recommendation expanded the definition of local government to include community development authorities and housing authorities as eligible borrowers.

The Brownfields Study Group continues to identify ways to improve the LRLP so it is attractive to Wisconsin communities. Members of the Study Group are concerned with the length of time to receive a Land Recycling Loan, as well as the differences between the eligible activities of the federal CWSRF and the state LRLP. The EPA lists the eligible brownfields activities for CWSRF funds to include the following:

- excavation and disposal of underground storage tanks;
- constructed wetlands (to act as a filtering mechanism);
- capping of wells;
- excavation, removal, and disposal of contaminated soil or sediments;
- tunnel demolition;
- well abandonment; and
- Phase I, Phase II, and Phase III assessments.

The eligible activities for the LRLP are limited to site investigation and cleanup. Demolition is only an eligible activity when it deals with water quality or a threat to water quality.

**Proposal**

In an attempt to make the LRLP more useful, the Study Group met with the Department of Administration and the DNR's Bureau of Community Financial Assistance and arrived at the following proposals:

- eliminate the use of the Intent to Apply (ITA) form and the December 31 deadline associated with the ITA;
- establish a quarterly application process for the LRLP;
- with the quarterly application process, clarify that the 40% of the funds that can be used for landfill projects would be calculated on a fiscal year basis;
- with the quarterly application process, DNR staff should clarify the LRLP scoring criteria;
- replenish LRLP to \$20 million at the end of every even-numbered calendar year;
- allow other credit quality collateral that will meet typical financial underwriting criteria to provide adequate security for the Land Recycling Loan, as opposed to currently allowing only the "Full Faith and Credit" of the municipality (i.e. General Obligation Bonds);
- when a necessary part of remediation, allow demolition as an eligible activity;
- make the loan available up front for Phase I and II environmental assessments, as well as site investigations; and

implement and communicate the following two decisions made by the Land Recycling Loan subgroup:

-if the property is sold – at fair market value – and the proceeds are less than the outstanding balance on the loan, then the municipality must repay the loan to the extent the proceeds allow, and then the municipality has the option of maintaining the remaining balance until the loan is paid off; and

-if the municipality enters into a lease with a developer or other user, then the municipality need not prepay the loan; rather, it may continue to amortize on the original schedule until the property is sold or the loan fully paid; the Environmental Improvement Fund (EIF), however, will not accept lease payments as sole security for the loan.

***Type of Change***

Administrative, Regulatory, or Statutory

***Resources***

None

***Comments***

Department of Natural Resources Comments: the Department of Natural Resources understands and agrees with what the Brownfields Study Group is trying to achieve with the first two recommendations listed above. However, the department believes the same results can be reached without pursuing statutory changes, and is willing to continue to work with members of the Study Group to develop acceptable alternatives.



Land Recycling Loan  
Questions from Kendra Banderud  
Answers from DNR

1. Has DNR closed any land recycling loans after January 1?  
If so, list each loan recipient and the loan amount.

The LRLP has not closed a loan since January 1. However, the City of Plymouth is scheduled to close their loan on May 23, 2001. landfill  
The reason we are waiting is that the City is refinancing a \$500,000 note and the pay off date is May 28.

2. Is the existing land recycling loan with the City of Amery for a landfill?

Yes. The loan amount is \$628,758.12.

3. Are any of the changes that the Brownfields Study Group recommended be made to the LRLP changes that would not be allowed under federal law? Under current state law?

(1) The only change that would not be allowed under federal law is the proposal to replenish the LRLP funds to \$20m at the end of every even-numbered calendar year. EPA guidelines 602(b)(4) state that "all funds in the fund will be expended in an expeditious and timely manner". We are also required to "prepare a plan identifying the intended uses of the amounts available to its...fund", 606(c). If the available funds are not used, then the Intended Use Plan must detail how and when the funds will be used. Unless a reasonable plan is presented, the EPA can withhold grant funds.

(2) Eliminate the use of the Intent to Apply and the December 31 deadline. Wis. Stats. 281.60(3).

(3) Establish a quarterly application process. The study group changed this to semi-annual. Wis. Stats. 281.60(5), "before the

date established by the department by rule". Wis. Admin. 167.09(2), "on or before the date established by the department".

(4) With the quarterly (semi-annual) application process, clarify that the 40% of funds to be used for landfills be calculated on a fiscal year basis. Wis. Stats. 281.60 "specifies that no more than 40% of the available funds in each fiscal year be allocated to landfill remediation projects".

(5) Allow other credit quality collateral that will meet financial criteria, as opposed to currently allowing only General Obligation Bonds. Wis. Stats. 281.60(8m)(a) "establish a dedicated source of revenue for the repayment of the financial assistance agreement." The LRLP was set up with the idea that municipalities would issue GO notes as collateral since there is no revenue generated by the brownfield to allow revenue bonds to be issued. However, the City of Sparta is in the process of setting up a Solid Waste Utility that would have a user charge paid by residents. If they are successful, this utility would provide the revenue needed to pledge revenue bonds.

(6) When a necessary part of remediation, allow demolition as an eligible activity. This is no longer an issue as demolition is eligible if it is part of the cleanup.

(7) Make loans available up front for Phase I and II assessments, as well as site investigations. Wis. Admin. 167.06(1)(a) and (b); describes eligible costs as "reasonable and necessary costs associated with...assessments and...a site investigation..." and "constructing the selected remedial action...".

4. What is the status of DNR and DOA discussions with a sub-group of members of the Brownfields Study Group regarding changes to the LRLP?

DNR and DOA will continue discussions with the Study Group at their request.

2001

Date (time)  
needed

soon

LRB b 0415 1 P1

**LFB BUDGET AMENDMENT  
[ONLY FOR LFB]**

RT : hmb:

See form AMENDMENTS — COMPONENTS & ITEMS.

**LFB AMENDMENT  
TO 2001 ASSEMBLY BILL 144 AND 2001 SENATE BILL 55**

DNate

>>FOR JT. FIN. SUB. — NOT FOR INTRODUCTION<<

At the locations indicated, amend the bill as follows:

#. Page 1449, line 2: after that line insert:

#. Page . . . . , line . . . . :

#. Page . . . . , line . . . . :

#. Page . . . . , line . . . . :

#. Page . . . . , line . . . . :

#. Page . . . . , line . . . . :

3/68 n  
 Section #. 281.60 (2) of the statutes is amended to read:

281.60 (2) GENERAL. The department and the department of administration may administer a program to provide financial assistance to eligible applicants for projects to remedy environmental contamination of sites or facilities at which environmental contamination has affected groundwater or surface water or threatens to affect groundwater or surface water. The department and the department of administration may provide financial assistance under this section to an eligible applicant only if the eligible applicant owns the contaminated site or facility or, if the applicant is a political subdivision, if a redevelopment authority or a housing authority owns the contaminated site or facility. The department and the department of administration may not provide financial assistance under this section to remedy environmental contamination at a site or facility that is not a landfill if the eligible applicant caused the environmental contamination.

History: 1997 a. 27, 237; 1999 a. 9.

Eligible costs for a project include <sup>costs of</sup> site assessment and site investigation, to the extent allowed under federal law, if the eligible applicant demonstrates in its application that remediation will be necessary and include <sup>costs of</sup> demolition that is a necessary part of the remediation.

Section 3168p - RP; 281.60 (3)

3168r

Section 281.60 (5) of the statutes is amended to read:

60415/P1

\* 281.60 (5) APPLICATION. ~~After submitting a notice of intent to apply under sub. (3) (a) or obtaining~~

\* ~~a waiver under sub. (3) (b), an~~ eligible applicant shall submit an application for land recycling loan program financial assistance to the department. The eligible applicant shall submit the application

\* before the date established by the department ~~by rule~~. *The department shall establish at least 2 application*

include the information required by the department and the department of administration. An eligible applicant may not submit more than one application per project per year. *deadlines each year*

History: 1997 a. 27, 237; 1999 a. 9.

60415/P1

✓  
3168u

✓  
Section #. 281.60 (8) (a) 1. of the statutes is amended to read:

281.60 (8) (a) 1. The department of administration may not allocate more than 40% of the ~~avail-~~  
allocated  
~~able~~ funds in each fiscal year to projects to remedy contamination at landfills. // ✓

History: 1997 a. 27, 237; 1999 a. 9.

(End)

Date

K  
Hendra Borderud:

This is a preliminary version of the proposal to change the land recycling loan program. Please review the draft carefully.

# Part (c) of item 18 of motion #906 said to specify that the 40% of funds that must be used for landfills

would be calculated on a fiscal year basis. I think that s. 281.60 (8)(a) 1. already provides that. I have tried making a small change in that provision.

# This draft does not contain language corresponding to part (d) of the instructions because I am unsure of what is needed. I do not know whether s. 281.60 (8m)(a) prevents the acceptance of other forms of collateral. It may be that s. 281.59 (a)(b) 1. is the problem or part of the problem. Let's discuss this when you get a chance.

Ret



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBb0415/P1dn  
RCT:hmh:kjf

May 29, 2001

Kendra Bonderud:

This is a preliminary version of the proposal to change the land recycling loan program. Please review the draft carefully.

Part (c) of item 18 of motion #906 said to specify that the 40% of funds that must be used for landfills would be calculated on a fiscal year basis. I think that s. 281.60 (8) (a) 1. already provides that. I have tried making a small change in that provision.

This draft does not contain language corresponding to part (d) of the instructions because I am unsure of what is needed. I do not know whether s. 281.60 (8m) (a) prevents the acceptance of other forms of collateral. It may be that s. 281.59 (9) (b) 1. is the problem or part of the problem. Let's discuss this when you get a chance.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: becky.tradewell@legis.state.wi.us

60415(P)

5/31/01 Per Kendra -

The concern is that municipalities don't want to be forced to provide g.o. bonds as collateral. Would be OK to notwithstanding s. 281.59(9)(b)2.



State of Wisconsin  
2001 - 2002 LEGISLATURE

SO ON

LRBb0415/1  
RCT:hmh:kjf  
Lstays  
Ymy

LFB:.....Bonderud – Changes in land recycling loan program

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

**LFB AMENDMENT**

**TO 2001 SENATE BILL 55 AND 2001 ASSEMBLY BILL 144**

1 At the locations indicated, amend the bill as follows:

2 1. Page 1449, line 2: after that line insert:

3 “SECTION 3168n. 281.60 (2) of the statutes is amended to read:

4 281.60 (2) GENERAL. The department and the department of administration  
5 may administer a program to provide financial assistance to eligible applicants for  
6 projects to remedy environmental contamination of sites or facilities at which  
7 environmental contamination has affected groundwater or surface water or  
8 threatens to affect groundwater or surface water. Eligible costs for a project include  
9 costs of site assessment and site investigation, to the extent allowed under federal  
10 law, if the eligible applicant demonstrates in its application that remediation will be  
11 necessary and include costs of demolition that is a necessary part of the remediation.

12 The department and the department of administration may provide financial

1 assistance under this section to an eligible applicant only if the eligible applicant  
 2 owns the contaminated site or facility or, if the applicant is a political subdivision,  
 3 if a redevelopment authority or a housing authority owns the contaminated site or  
 4 facility. The department and the department of administration may not provide  
 5 financial assistance under this section to remedy environmental contamination at  
 6 a site or facility that is not a landfill if the eligible applicant caused the  
 7 environmental contamination.

8 **SECTION 3168p.** 281.60 (3) of the statutes is repealed.

9 **SECTION 3168r.** 281.60 (5) of the statutes is amended to read:

10 281.60 (5) APPLICATION. ~~After submitting a notice of intent to apply under sub.~~  
 11 ~~(3) (a) or obtaining a waiver under sub. (3) (b), an~~ An eligible applicant shall submit  
 12 an application for land recycling loan program financial assistance to the  
 13 department. The eligible applicant shall submit the application before the date  
 14 established by the department ~~by rule.~~ The department shall establish at least 2  
 15 application deadlines each year. The application shall be in the form and include the  
 16 information required by the department and the department of administration. An  
 17 eligible applicant may not submit more than one application per project per year.

18 **SECTION 3168r.** 281.60 (8) (a) 1. of the statutes is amended to read:

19 281.60 (8) (a) 1. The department of administration may not allocate more than  
 20 40% of the ~~available~~ funds allocated in each fiscal year to projects to remedy  
 21 contamination at landfills.

22 (END)

Section 3168v. CR; 281.60 (8p)

281.60 (8p) <sup>(B)</sup> <sup>(CS)</sup> security. Notwithstanding s. 281.59 (9) (b) 1, the

department and the department of administration may not require  
 an applicant to use general obligation bonds as security for  
 financial assistance under this section but shall accept other  
 collateral that meets typical underwriting criteria. "

LFB:.....Bonderud – Changes in land recycling loan program

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

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7           environmental contamination has affected groundwater or surface water or  
8           threatens to affect groundwater or surface water. Eligible costs for a project include  
9           costs of site assessment and site investigation, to the extent allowed under federal  
10          law, if the eligible applicant demonstrates in its application that remediation will be  
11          necessary and include costs of demolition that is a necessary part of the remediation.  
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23 281.60 (8p) SECURITY. Notwithstanding s. 281.59 (9) (b) 1., the department and  
24 the department of administration may not require an applicant to use general

1 obligation bonds as security for financial assistance under this section but shall  
2 accept other collateral that meets typical underwriting criteria.”.

3 (END)